

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY BARBARIN,

Petitioner,

No. 2:04-cv-00894-MDS

vs.

ORDER

A.K. SCRIBNER, Warden,

Respondent.

_____ /

“The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rules Governing § 2254 Cases, Rule 11(a), *reprinted in* 28 U.S.C. § 2254. A certificate of appealability is required for any appeal to proceed. 28 U.S.C. 2253(c); Fed. R. App. P. 22(b). This court may issue a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. 2253(c)(2). To meet this standard, an issue must be “debatable among jurists of reason,” capable of being resolved differently or “adequate to deserve encouragement to

1 proceed further." *Jennings v. Woodford*, 290 F.3d 1006, 1010 (9th Cir. 2002).
2 For the reasons stated in the merits order, none of the issues raised by Barbarin
3 qualifies for a certificate of appealability. A certificate of appealability is
4 therefore denied.

5
6 DATED: August 18, 2011

7 /s/ Milan D. Smith, Jr.
8
9 UNITED STATES CIRCUIT JUDGE
Sitting by Designation